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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,258	02/25/2002	Kiran Venkatesh Hegde	DAND0004	3975
75671                      7590                      10/31/2008 Sadler, Breen, Morasch & Colby, ps 422 W. Riverside Ave, Suite 424 Spokane, WA 99201				
EXAMINER				
STORK, KYLE R				
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2178				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/084,258

**Applicant(s)**

HEGDE ET AL.

**Examiner**

KYLE R. STORK

**Art Unit**

2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This non-final office action is in response to the RCE and the amendment filed 2 October 2008.
2. Claims 1-3 and 5-21 are pending. Claims 1, 10, and 16 are independent claims. Claims 4 and 22 are cancelled by the amendment.

The rejection of claims 1-3, 5, 8-11, 16-17, and 21 under 35 USC 103 over Crow et al. (US 6262724, filed 1999, hereafter Crow) and further in view of Modeste et al. (US 5852800, filed 20 October 1995, hereafter Modeste) and further in view of O'Rourke et al. (US 2002/0198953, filed 26 June 2001, hereafter O'Rourke) has been withdrawn as necessitated by the amendment.

The rejection of claims 7 and 20 under 35 USC 103 over Crow, Modeste, and O'Rourke, and further in view of Adams (US 2002/0124100, filed 2000) has been withdrawn as necessitated by the amendment.

The rejection of claims 6, 12-15, and 18-19 under 35 USC 103 over Crow, Modeste, and O'Rourke, and further in view of Wade (US 2002/0019831, filed 2001) has been withdrawn as necessitated by the amendment.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Armstrong et al. (US 6985934, filed 23 October 2000, hereafter Armstrong).

As per independent claim 1, Armstrong discloses a method comprising:

automatically determining when an internet browser of a network device on a network has requested access to a rich media presentation (Figure 1A; Figure 3, item 301; column 7, lines 25-29: Here, a client computer, which is a network device (see column 6, lines 42-47), connects to a server)

detecting one or more attributes relating to rich media presentation capabilities of one or both of the internet browser and the network device (Figure 1B; Figure 3, items 302-303; column 7, lines 44-51), the one or more attributes including at least one of:

an operating system type attribute, a plug-in attribute, a browser type attribute, a firewall attribute, a monitor setting attribute, a language attribute, a bandwidth attribute, or a protocol attribute (column 2, lines 22-42; column 5, lines 41-62: Here, one piece of software often contained within a browser for playback of specialized formats such as MPEG, QTF, and AVI are plug-ins. Similarly, the hardware and software capabilities of the network device are determined. This determination step would include determining if plug-ins allowing for playback of formats such as MPEG, QTF, and AVI are installed)

selecting an appropriate rich media presentation to be sent to the internet browser from among a plurality of rich media presentations based on the detected one or more attributes (Figure 1C-1E; Figure 3, items 304-305; column 8, lines 4-19: Here, an appropriate rich media presentation is selected to be sent to the internet browser based upon a pre-established preference ranking)

causing the selected rich media presentation to be sent to the internet browser (Figure 1C-1E; Figure 3, items 305-306; column 8, lines 44-50)

As per dependent claim 2, Armstrong discloses wherein detecting one or more attributes comprises detecting two or more attributes from an operating system attribute, a plug-in attribute, a browser type attribute, a firewall attribute, a monitor setting attribute, a language attribute, a bandwidth attribute or a protocol attribute (column 5, lines 41-62; column 10, lines 17-32: Here, the system may include a communications interface. This communication interface specifies the bandwidth and protocol for transfer of data. Further, as being part of the system, these attributes are detected when the server queries the hardware and software capabilities of the system).

As per dependent claim 3, Armstrong discloses determining when one or both of the internet browser and the network device supports playing the rich media presentation, configuring the rich media presentation based on the detected attributes when a determination is made that playing of the rich media presentation is supported, otherwise, causing a supported presentation to be sent to the internet browser (column 8, lines 4-19).

As per dependent claim 5, Armstrong discloses allowing a client to modify one or more characteristics associated with the rich media presentation (column 9, lines 1-41: Here, a user can modify the characteristics of the presentation, such as turning on/off audio and/or video).

As per dependent claim 6, Armstrong discloses wherein causing the selected rich media presentation to be sent to the network device comprises utilizing an ad serving engine (column 2, lines 4-42).

As per dependent claim 7, Armstrong discloses wherein causing the selected rich media presentation to be sent to the network device comprises utilizing an email serving engine (column 9, lines 23-32).

As per dependent claim 9, Armstrong discloses wherein selecting the appropriate rich media presentation comprises:

- selecting a virtual player configured for the network device (column 8, lines 44-67)

- selecting a presentation package configured for the network device (Figure 1C-1E; Figure 3, items 304-305; column 8, lines 4-33)

- selecting a media package for the network device (Figure 1C-1E; Figure 3, items 304-305; column 8, lines 4-33)

As per claims 10 and 16, the applicant discloses the limitations substantially similar to those in claim 1. Claims 10 and 16 are similarly rejected.

As per claims 11 and 17, the applicant discloses the limitations substantially similar to those in claim 3. Claims 11 and 17 are similarly rejected.

As per dependent claims 12 and 18, Armstrong discloses wherein the rich media presentation is configured to be presented with a banner ad that is selectable to cause an action to be performed (column 1, line 56- column 2, line 42).

As per claims 13 and 19, the applicant discloses the limitations similar to those in claim 6. Claims 13 and 19 are similarly rejected.

As per claim 14 and 20, the applicant discloses the limitations similar to those in claim 7. Claims 14 and 20 are similarly rejected.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 8, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong, and further in view of Crow et al. (US 6262724, application 1999, hereafter Crow).

As per dependent claim 8, Armstrong discloses the limitations similar to those in claim 5, and the same rejection is incorporated herein. Armstrong fails to specifically disclose delivering an image to the device that is displayed on the device at a location relating to the rich media presentation. Crow further discloses the method comprising delivering an image to the device that is displayed on the device at a location relating to the rich media presentation (Figure 4, items 248 and 250: Here, the media source icons are images displayed on the device and the location is related to the corresponding presentation). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Crow with Armstrong, since it would have allowed a user to view an image representing the presentation prior to displaying the entire presentation.

As per claims 15 and 21, the applicant discloses the limitations similar to those in claim 8. Claims 15 and 21 are similarly rejected.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-3 and 5-21 have been considered but are moot in view of the new ground(s) of rejection.



***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KYLE R. STORK whose telephone number is (571)272-4130. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kyle Stork/  
Kyle R Stork  
Primary Examiner  
Art Unit 2178

krs